

BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA
DOCKET NO. 2019-281-S

IN RE:

Application of Palmetto Utilities, Inc. for
adjustment of rates and charges for, and
modification to certain terms and conditions
related to the provision of sewer service.

AFFIDAVIT

Personally appeared before me, John M. S. Hoefer, who, being duly sworn, affirms and swears as follows:

1. I am in excess of eighteen years of age and competent to give this affidavit.
2. I am a member in good standing of the South Carolina Bar and represent Palmetto Utilities, Inc. ("PUI" or the "Company") in the above-captioned proceeding.
3. On February 13, 2020, I contacted ORS Chief Legal Officer Jeff Nelson to express PUI's position that Water Operations Request Number 20, issued by ORS Senior Regulatory Analyst – Water Operations Daniel P. Hunnell, II, did not constitute a demand for the production of books, records or information under S.C. Code Ann. §58-4-55(A), but rather sought to require that the Company enter into a stipulation. A copy of that document is attached hereto and incorporated as Exhibit 1. I informed Mr. Nelson that, unless it was withdrawn, the Company would likely instruct me to take some action to protect it from what it believed to be an improper demand under this statute.
4. Thereafter, in subsequent conversations with Mr. Nelson on that date and the following day, and at a meeting held on February 19, 2020, at ORS's office in Columbia, Mr.

Just #1

Nelson stated to me that ORS was withdrawing Water Operations Request Number 20 and that the Company was not required to respond to it.

5. I communicated ORS's withdrawal of Water Operations Request Number 20 to Lauren B. Hutson, Manager of Financial Planning and Analysis Ni Pacolet Milliken Utilities, LLC shortly after the February 19, meeting with ORS.

6. To my knowledge, the Company has never responded to Water Operations Request Number 20.

7. On May 26, 2020, at about 2:00 p.m. I received via electronic mail message from ORS addressed to me, counsel for the Consumer Advocate, and Ms. Levine, electronic copies of ORS's prefiled direct testimonies and exhibits. I began to scan through Mr. Hunnell's prefiled testimony first and immediately noticed that an exhibit attached thereto consisted of the Company's response to one of the ORS demands for production of books, records and information under S.C. Code Ann. §58-4-55. I immediately called Mr. Nelson to make him aware of my view that this constituted a violation of PUI's right under subsection A of the statute to have this matter treated as confidential and proprietary by ORS and not disclosed publicly. After initially confusing my concern as being related to the prefiled direct testimony of another ORS witness, Daniel Sullivan, Mr. Nelson recognized that I was referring to an attachment to Mr. Hunnell's testimony.

8. In an effort to avoid any further improper disclosure, I requested of Mr. Nelson that ORS seek to have Mr. Hunnell's testimony and exhibit withdrawn and not posted to the Commission's website. Mr. Nelson agreed to do so in that initial conversation, but in a later conversation that day, informed me that ORS was filing a redacted version of Mr. Hunnell's testimony and exhibits but intended to also file a motion with the Commission for leave to file it

JS #2

unredacted under seal. I explained to Mr. Nelson that the Company would likely oppose that motion based on its position that the statute had already been violated and did not permit any disclosure. I received Mr. Hunnell's redacted testimony and exhibits electronically from ORS at approximately 5:25 p.m. that same day.

9. I did not review Mr. Hunnell's testimony any further that day, nor did Mr. Nelson inform me that it contained multiple references to or discussions of matter produced to ORS by the Company under §58-4-55. However, in reviewing ORS witness Charles Loy's prefiled testimony and exhibits at approximately 5:38 p.m. that day, I discovered for the first time that he, too, had attached matter produced by the Company under §58-4-55(A).

10. On the following day, May 27, 2020, I was able to fully review Mr. Hunnell's prefiled direct testimony and exhibits and Ms. Christina L. Seale's direct testimony. It was only then that I became aware (a) that Mr. Hunnell's testimony contained multiple references to, discussions of, and attachments of matter the Company believed protected from disclosure under §58-4-55(A) which had not been redacted and (b) that Ms. Seale's testimony included multiple references to and discussions of matter the Company believed protected from disclosure under §58-4-55(A). At approximately 3:34 p.m. on that day, I received via electronic mail message from ORS an electronic copy of its Motion for Leave to File under Seal the portions of Mr. Hunnell's testimony and exhibits which had been redacted.

11. Although the Commission's regulation does not require consultation on any motion, it has been and is my practice to consult with opposing counsel when practical. However, in view of ORS's position with respect to its motion for leave to file Mr. Hunnell's testimony and exhibits unredacted under seal, and in view of my discovery of multiple instances

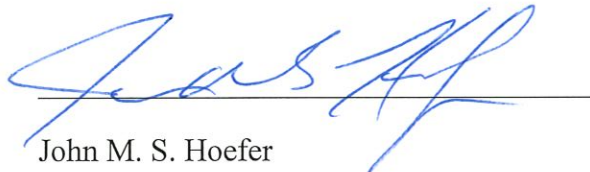
Just #3

in which other testimony of Mr. Hunnell and testimony of Mr. Loy and Ms. Seale also attached matter produced by the Company under §58-4-55(A), I concluded that consultation with ORS counsel would serve no useful purpose.

12. The Company's failure to include in its Motion to Strike and for Sanctions portions of the testimony of its cost of capital witness David Parcell, which is referenced in footnote 5 of ORS's June 12, 2020, Response to the Company's motion, was the result of an oversight on the part of the undersigned. Had I noticed these three footnotes included in fifty-one pages of testimony, I would have included it in the Company's Motion which was filed on June 5.

PURSUANT TO SECTION (c)(16) OF ORDER 2020-04-03-01 OF THE SOUTH CAROLINA SUPREME COURT AND COMMISSION ORDER 202-391, I CERTIFY THAT THE FOREGOING STATEMENTS MADE BY ME ARE TRUE. I AM AWARE THAT IF ANY OF THE FOREGOING STATEMENTS MADE BY ME ARE WILLFULLY FALSE, I AM SUBJECT TO PUNISHMENT BY CONTEMPT.

FURTHER AFFIANT SAYETH NAUGHT.



John M. S. Hoefer

Dated this 16 day of June, 2020

Columbia, South Carolina

Just #4



ORS WATER OPERATIONS REQUEST FORM

Please acknowledge receipt of request by email.

DATE: February 13, 2020

TO: Mark Daday/Lauren Hutson

UTILITY: Palmetto Utilities, Inc. – Docket No. 2019-281-S

FROM: Daniel Hunnell II

PURPOSE: Tariff Change – Limitation of Liability

REQUEST THE FOLLOWING ITEMS BE PROVIDED BY: February 20, 2020 or sooner

Please provide responses to the following in writing, electronically, and serve the above-named party on or before the date specified to dhunnell@ors.sc.gov. In addition to a signature and verification at the close of the Company's responses, please indicate the Company witness(es), employee(s), or agent(s) responsible for the information contained in each response.

Pursuant to S.C. Code Ann. §§ 58-4-55 (Supp. 2018) and 58-5-230 the South Carolina Office of Regulatory Staff hereby makes the following request(s):

PUI's amended application states "Applicant proposes that it be permitted to limit its liability and that of its agents and employees to customers for damages arising out of the interruption of service or the failure to furnish service to the remedies provided in S.C. Code Regs. 103-517 (2012)." (Company amended this text to cite S.C. Code Reg. 103-514 as the correct regulation in its response to Water Operations Request No. 14).

Please confirm or deny that the Company agrees that by way of its request to add the limit of liability language to its tariff that it is not seeking a waiver of its obligations established by S.C. Code Regs 103-535, 103-551, and 103-571, which regulates interruption of service and that the Company intends to continue to fully comply with these regulations.

Please confirm or deny that the Company agrees that by way of its request to add the limit of liability language to its tariff that it is not seeking a waiver of its obligations established by the Commissions regulations concerning Customer Relations established in Chapter 103; Article 5, Sub article 4 and that the Company intends to continue to fully comply with these regulations.

Thank you,
Daniel Hunnell II
803.737.0780